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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,963	04/27/2001	Mark J. Weiser	1671-0004	8648

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EXAMINER

LEVY, NEIL S

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 09/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/842,963	Applicant(s) WEISER, MARK J.	
	Examiner Neil Levy	Art Unit 1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/13/04
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19, 23-26 is/are pending in the application.
- 4a) Of the above claim(s) 2, 3, 5, 13-19, 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-19, 23-26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claims 2, 3, 5, 13-19 and 23 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 3/11/03.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4, 7-12, 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over ISHIHARA et al 4974725 in view of Smart 4809455 or Bell 5672342 or Warberg 6337081.

ISHIHARA provides container, envelopes transportable (col.2, lines 29-37, figures) for liquids and carriers, that are gas permeable, water, a liquid, impermeable (col.2, lines 56-63). The liquid active is on a carrier of resin powder (col.3, lines 9-20), effective for long times (col.4, lines 11-15). Sizes, and liquids are unspecified; the envelopes are films or sheets, thus inclusive of the instant obvious thickness of sheet material; 1-5mm.

Smart shows use of liquid animal secretion urine (lines 57-60, col.2) with powder or granular absorbent carrier (col.2, bottom, example 1). However, Smart does not containerize.

Bell (col.3, lines 47-49) shows urine, with estrous secretions, but, the container does not permit of use for prolonged release-it is simply stored in a bottle (claim 2).

Warberg also provides envelope containers, the liquid active absorbed on granular or (col.3, lines 47-52) fibrous carriers (col.2, top), in order to provide slow release of scent.

Thus, it would be obvious to one of ordinary skill in the art desiring to utilize scent compositions, to prepare those shown to be well known in the art, with specific container shown by ISHIHARA.

It has not clearly been established by objective showing of unobvious and/or unexpected results, that the administration of the particular form of active, carrier, or the particular form of package provides any greater level of prior art expectations as claimed. Further, applicant has showed no criticality as to the active and additive agents; nor their concentration, or packaging.

Applicant's arguments with respect to claims 1, 4, 6-8, 24-26 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 8/13/04 have been fully considered but they are not persuasive. Applicant's arguments, in view of reconsidered references are cogent, and updated search finds no anticipatory gas permeable, liquid impermeable sheet or envelope of urine. However, the hunting perfuming, repellent and attractant arts are replete with animal secretions-Musk, perfume-some of which here cited, are shown to provide prolonged release from granular, powder or fibrous carriers. The advantages of prolonged release of a scent composition, whether of urine or a chemical active, are shown by ISHIHARA, the closest of the containers of a scent and carrier. We further

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find no basis for understanding how one have a perforated liquid impermeable plastic (claim 6).

Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how a perforated film is liquid impermeable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is 571-272-0619. The examiner can normally be reached on T-F from 7:00a.m to 5:30p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gray Kunz can be reached on 571-272-0887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


NEIL S. LEVY
PRIMARY EXAMINER
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